

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-HC-2196-D

FRANK SARGENT,)
)
 Petitioner,)
)
 v.)
)
 TRACY W. JOHNS, WARDEN,)
)
 Respondent.)

ORDER

On September 3, 2010, Frank Sargent (“Sargent” or “petitioner”) filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 [D.E. 1]. On September 3, 2010, Sargent filed a motion for expedited calendar setting [D.E. 4]. On December 1, 2010, Sargent filed a motion to dismiss his petition [D.E. 6].

A petitioner may dismiss an action voluntarily, without an order of the court, by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1)(A)(i). Otherwise, an action shall not be dismissed on the petitioner’s request except upon order of the court. See Fed. R. Civ. P. 41(a)(2). Respondent has not filed an answer or a motion for summary judgment. Thus, the court will allow the voluntary dismissal.

Petitioner’s motion for voluntary dismissal without prejudice [D.E. 6] is ALLOWED. Petitioner’s motion for expedited calendar setting [D.E. 4] is DENIED AS MOOT. The Clerk of Court is DIRECTED to close this case.

SO ORDERED. This 14 day of December 2010.


JAMES C. DEVER III
United States District Judge